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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,948	10/15/2003	Vernon D. Ortenzi	3356-137	7650

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EXAMINER	
HEPPERLE, STEPHEN M	

ART UNIT	PAPER NUMBER
3753	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/685,948	ORTENZI ET AL.	
	Examiner	Art Unit	
	Stephen M. Hepperle	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-16 and 18-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *26* is/are allowed.

6)☒ Claim(s) *1-13,15,16,18-24 and 27-30* is/are rejected.

7)☒ Claim(s) *14 and 25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arvintz in view of Gordon. Arvintz shows a vent or filling pipe for a tank including a housing 5 having a pressure relief valve 23 and vacuum relief valve 26 inside. Near the bottom of the housing is a removable filter 12 resting on groove 10. The filter is accessed by separating the housing 5 from the vent pipe 7. Gordon shows a prior art (Fig. 3) pressure vent valve venting both high and low pressure. Housing 19 traps filter 30 between it and adapter 18 (claims 3-6), which is screwed into short tank vent pipe 13. Note screen 39 (claim 2). Unscrewing the housing provides access to the filter 30. It would have been obvious in view of Gordon to place the Arvintz filter flange 11 between the housing pipe 5 and vent pipe 7 to secure the filter to eliminate the need to machine a separate support shoulder and to more securely locate the filter. Such a modification would add utility to the device because positively securing the filter (as shown by Gordon) would keep the filter seated at different angles (rather than relying only on gravity to hold the filter in place). The small vent opening 19 is provided "to avoid the transmission of foreign elements therethrough into the chamber 13", and is thus seen as the filter of claim 2. Alternatively, it would have been obvious to add a screen on top as shown by Gordon (screen 58). Regarding the use of an adapter (claims 3-8), the use of plumbing adapters to adjust from one pipe size to another is notoriously well known (as a trip to the local plumbing supply store will well attest). It would have been obvious to use an adapter to allow the Arvintz device

to be used on different size vent pipes, thus increasing the device's utility. The adapter would fit between the housing 5 and vent pipe, and such an arrangement would cause the Arvintz filter to extend into the adapter area (claim 5). Since Arvintz has threads at the bottom of the housing 5 and at the top of vent pipe 7, an adapter would be expected to have threads at both ends (claim 6). Regarding claim 9, note fibrous seal 24 on the high pressure valve. Regarding the method claims 27-30, it would have been obvious to service the filter by either cleaning it or replacing it as both processes are notoriously well known. Servicing the filter would involve removing the housing 5 to gain access to the filter, as claimed.

Claims 1-9 and 17-30 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Arvintz. It would have been obvious to replace the straight screen 30 of Gordon (Fig. 3) with the cylindrical filter of Arvintz to enlarge the total filter area, thus reducing frequency of service. Regarding the method claims 27-30, it would have been obvious to service the filter by either cleaning it or replacing it as both processes are notoriously well known. Servicing the filter would involve removing the housing 5 to gain access to the filter, as claimed.

Claims 10-13, 15-16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arvintz or Gordon in view of Benkeser. Benkeser shows a valve where either the head or seat are made of pliable closed cell plastic foam. It would have been obvious to replace the fibrous seal 24 with the more modern foam seal as shown by Benkeser to provide a better seal, especially in the presence of particles on the seat. Alternatively, it would have been

obvious to replace the fibrous seal 24 with a foam seal as shown by Benkeser to provide a better seal, especially in the presence of particles on the seat.

Claims 14 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is allowed.

Applicant's arguments filed 21 February 2006 have been fully considered but they are not persuasive. Gordon and Arvintz are seen as clearly analogous art. The fact that Gordon's filter are concerned with fire retardation does not make it non-analogous with Arvintz. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is seen that one of ordinary skill in the art would appreciate that enlarging a filter's surface area is advantageous by increasing capacity and thereby reducing service frequency, and would appreciate that positively securing a filter screen in a valve would make the device useful in an

environment involving non vertical orientation or vibration (either of which could upset the filter from its seat, allowing dirt to bypass the filter).

The arguments with respect to the 102 rejection are moot because of the amendments.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Hepperle whose telephone number is 571-272-4913. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen M. Hepperle
Primary Examiner
Art Unit 3753

SMH